

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ZYNGA GAME NETWORK, INC.,

No. C-09-3636 SC (EMC)

Plaintiff,

v.

**ORDER RE JOINT LETTER OF
OCTOBER 10, 2009**

GREEN PATCH, INC.,

(Docket No. 70)Defendant.

The parties filed a joint letter on October 10, 2009, regarding a discovery dispute. That dispute concerns the propriety of objections and instructions not to answer made by defense counsel during the 30(b)(6) deposition of Green Patch. A hearing was held on the discovery dispute on October 14, 2009.

The Court concludes that Judge Conti's order of August 31, 2009, *see* Docket No. 26 (order), is dispositive on the matter. In his order, Judge Conti specifically stated that "Zynga shall be entitled to notice and take one Fed. R. Civ. P. 30(b)(6) deposition . . . as set forth in the Deposition Notice[] attached as Exhibit C . . . to . . . Zynga's Motion." Docket No. 26 (Order at 2). Exhibit C identifies several subject matters for the 30(b)(6) deposition, including the following three topics: (1) "[t]he Copying of Zynga's Software Code that occurred in any other context, including in connection with the design or development of any Other Applications, including the roles and responsibilities of individuals involved in such Copying" (Topic No. 3); (2) "[y]our knowledge of Green Patch's Copying of Zynga's Software Code, and any steps taken in response to gaining that knowledge" (Topic No. 4); and (3) "[t]he extent to which all personnel involved in Copying


1 *FarmVille, Fashion Wars, Poker Planet, and Mafia Wars* Software Code participated in the design
2 and development of Other Applications” (Topic No. 6). Docket No. 13 (Mot, Ex. C). Given the
3 language in Judge Conti’s order that Zynga was entitled not only to notice but also to take a 30(b)(6)
4 deposition on such topics,¹ Green Patch should have -- to the extent it objected to such topics --
5 either moved for reconsideration of Judge Conti’s order or moved for a protective order well in
6 advance of the deposition. Green Patch did neither.

7 Accordingly, consistent with Judge Conti’s order, the Court shall order a continued 30(b)(6)
8 deposition on Topics Nos. 3, 4, and 6. To the extent the parties have disputes about whether
9 questions concerning other topics should have been answered at the deposition, the Court orders the
10 parties to further meet and confer to resolve the disputes consistent with the Court’s remarks at the
11 end of the hearing. The Court also orders the parties to meet and confer to determine a date
12 mutually agreeable for both parties for the continued 30(b)(6) deposition. Given that the discovery
13 is being taken for purposes of Zynga’s filing a motion for preliminary injunction, the deposition
14 should take place forthwith.

15 This order disposes of Docket No. 70.

16
17 IT IS SO ORDERED.

18
19 Dated: October 14, 2009

20
21 
EDWARD M. CHEN
United States Magistrate Judge

22
23
24
25
26
27
28 ¹ Compare Docket No. 26 (Order at 2) (only permitting Zynga to serve written discovery, *i.e.*,
clearly not barring objections to the written discovery).